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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 EQUAL EMPLOYMENT  
11 OPPORTUNITY COMMISSION,

12 Plaintiff,

13 v.

14 BNSF RAILWAY COMPANY,

15 Defendant.

CASE NO. C14-1488 MJP

ORDER ON MOTION FOR  
RECONSIDERATION

16 On January 2, 2020, this Court entered an Order re: Post-Appeal Discovery and Case  
17 Schedule. Dkt. No. 186. In that order, the Court commented on the divergent positions taken by  
18 the parties regarding how to proceed in the wake of the Ninth Circuit's order remanding the  
19 matter—Plaintiff requesting limited discovery and a briefing schedule limited to the issue which  
20 was remanded by the appellate court; Defendant arguing that “developments following the  
21 issuance of the Ninth Circuit's opinion either moot the action and require this Court to dismiss  
22 the entire matter or entitle Defendant to file a motion pursuant to FRCP 60(b) seeking relief from  
23 the final injunctive order.” Id. at 2. The Court concluded:  
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1 The Court agrees with Plaintiff: Defendant's request regarding dismissal  
2 and/or a Rule 60(b) motion is outside the scope of the Ninth Circuit's  
3 mandate, which is the operative document before this Court and must  
determine the parameters of the next steps to be taken.

4 Id., at 2.

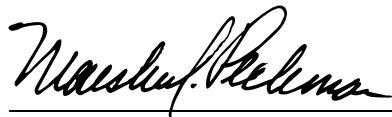
5 In spite of this language indicating that Defendant's position exceeded the bounds of the  
6 authority granted to this Court by the Court of Appeals, Defendant (reasoning "[t]he Court did  
7 not order or direct BNSF *not* to file its contemplated motions"; Dkt. No. 187 at 3, emphasis in  
8 original) has now moved for permission to file the motions which this Court has already ruled  
9 are "outside the scope of the Ninth Circuit's mandate."

10 The Court sees no alternative but to treat this as a motion for reconsideration under Local  
11 Rule 7(h), requesting this Court to reconsider its stated position in light of some manifest legal  
12 error or newly developed facts or authority. Such a motion is not only explicitly "disfavored,"  
13 but must be brought "within fourteen days after the order to which it relates is filed." LCR  
14 7(h)(2). The original order was filed on January 2; the deadline for a motion for reconsideration  
15 would have been January 16. Defendant's motion was filed on January 28. Wherefore,

16 IT IS ORDERED that Defendant's motion is DENIED as untimely.

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18 The clerk is ordered to provide copies of this order to all counsel.

19 Dated January 30, 2020.

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21 Marsha J. Pechman  
22 United States Senior District Judge  
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